

NOTICES OF EXEMPT RULEMAKING

The Administrative Procedure Act requires the *Register* publication of the rules adopted by the state's agencies under an exemption from all or part of the Administrative Procedure Act. Some of these rules are exempted by A.R.S. §§ 41-1005 or 41-1057; other rules are exempted by other statutes; rules of the Corporation Commission are exempt from Attorney General review pursuant to a court decision as determined by the Corporation Commission.

NOTICE OF EXEMPT RULEMAKING

TITLE 3. AGRICULTURE

CHAPTER 2. DEPARTMENT OF AGRICULTURE – ANIMAL SERVICES DIVISION

PREAMBLE

- 1. Sections Affected**
Article 7
R3-2-707
- Rulemaking Action**
New Section
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statute: A.R.S. § 3-107(A)(1)
Implementing statutes: A.R.S. §§ 3-1344 and 3-1345
- 3. The effective date of the rule:**
August 22, 2002. An immediate effective date is authorized in Laws 2002, Ch. 328, § 31.
- 4. A list of all previous notices appearing in the Register addressing the exempt rule:**
None
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Sherry D. Blatner, Rules Specialist
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- 6. An explanation of the rule, including the agency's reasons for initiating the rule, including the statutory citation to the exemption from the regular rulemaking procedures:**
Laws 2002, Ch. 328, § 31, provided an exemption from rulemaking for adoption of a rule to establish inspection fees pursuant to A.R.S. §§ 3-1344 and 3-1345. Based upon this statutory exemption and new language at A.R.S. §§ 3-1344(B) and 3-1345(B), the Department is establishing increased fees for new and transferred Ownership and Hauling Certificates for Equines. The fees will be \$10 per certificate, an increase from \$5. Additionally, a fee of \$10 is established for replacement certificates. Certificates are valid for the life of the equine or until it is sold. Participation in the program is voluntary under the revised statutes and a civil penalty will no longer be assessed.
- 7. A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, any analysis of each study and other supporting material:**
Not applicable
- 8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable

9. The summary of the economic, small business, and consumer impact:

A. The Arizona Department of Agriculture.

The Department will incur a minimal cost related to training staff and advising the regulated community of the changes in statute and rule. The application form used by equine owners will be revised and reprinted. However, these expenses will be offset by the new Equine Inspection Fund created at A.R.S. § 3-1345.01.

B. Political Subdivision.

Historically, money collected for issuing Ownership and Hauling Certificates was remitted to the general fund. These funds will now be deposited in the Equine Inspection Fund to help the Department offset the cost of managing the program. However, as the program will be voluntary and there will be no further assessment of late penalties, the total revenue collected may drop significantly.

C. Businesses and the Public Directly Affected By the Rulemaking.

The certificate program is voluntary under changes created in statute. There are no longer civil penalties, formerly up to \$50 per equine, for failure to comply on a timely basis. Owners participating in the revised program will pay a \$10 fee per certificate for a new or transferred certification, an increase of \$5. If a replacement certificate is needed, a charge of \$10 per certificate will be charged.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

Not applicable

11. A summary of the comments and the agency response to them:

Notice of the rulemaking, including a request for comment on the revised fees, was presented to the public in the following manner:

- Announcement at the Animal Services Division Advisory Council meeting held on June 4;
- Publication in the quarterly edition of the Department's newsletter, AG Activities, mailed June 10, 2002;
- Announcement on the Home Page of the Department's web site beginning June 12;
- Postings at the Department, at the reception desk and the licensing section, beginning June 12;
- Notification on June 13 by facsimile or voice mail to the Arizona Quarter Horse Breeders Association, the Arabian Horse Association of Arizona, the Arizona Thoroughbred Breeders Association, the Arizona Paint Horse Club; and
- Notification to the following individuals, active in horse issues, on June 13: Chuck Lakin (facsimile) and Bob Dorociak (voice mail).

Written comments received by the Department indicated overwhelming support for a fee increase, and some suggested that the increase be as high as \$25 per certificate.

Comments were accepted through July 15, 2002.

The Arizona Department of Agriculture's Advisory Council supported the rulemaking by motion at a telephonic meeting held August 5, 2002. The Department appreciates the support of the Advisory Council.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

13. Incorporations by reference and their location in the rules:

None

14. Was this rule previously made as an emergency rule?

No

15. The full text of the rule follows:

TITLE 3. AGRICULTURE

CHAPTER 2. DEPARTMENT OF AGRICULTURE – ANIMAL SERVICES DIVISION

ARTICLE 7. LIVESTOCK INSPECTION

Section

R3-2-707. Ownership and Hauling Certificate for Equines; Fees

ARTICLE 7. LIVESTOCK INSPECTION

R3-2-707. Ownership and Hauling Certificate for Equines; Fees

The fee for a new, transferred, or replacement Ownership and Hauling Certificate for Equines as prescribed under A.R.S. §§ 3-1344(B) and 3-1345(B) is \$10 per certificate.